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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fiftieth session

SUMMARY RECORD OF THE 1210th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 19 March at 3 p.m.

Chairman: Mr. BANTON

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Draft concluding observations concerning the seventh periodic report of Guatemala (CERD/50/Misc.8)

Paragraph 8

1. The CHAIRMAN said that the word "voluntary" should be changed to "volunteer".

Paragraph 9

2. Mr. CHIGOVERA suggested that the reference to "the Joint Commission" in the second sentence should be replaced by "a Joint Commission".

Paragraph 12

3. Mr. CHIGOVERA, supported by Mr. GARVALOV and Mr. ABOUL-NASR, said that the last sentence, which criticized the death penalty, should be deleted. The punishment provided by the law of a State reflected that State's perception of the seriousness of a given crime and could only be challenged if it was alleged to be directed against a particular racial or ethnic group.

4. Mr. YUTZIS (Country Rapporteur) said that the reference to the death penalty had been included because members of the indigenous population were the ones most often sentenced to that form of punishment, which merely served to exacerbate the climate of violence.

5. The CHAIRMAN said he took it that most members of the Committee wished to delete the last sentence of paragraph 12.

Paragraphs 13-15

6. Mr. WOLFRUM said that in order to avoid duplication with paragraph 15, the words "articles 4 and 5" in paragraph 13 should be amended to "article 5". The three paragraphs should, in fact, be rearranged so that they followed the order of the articles of the Convention.

7. The CHAIRMAN, responding to a point raised by Mr. CHIGOVERA, suggested that, in paragraph 15, the words "incitement to" should be inserted after "prohibiting".

Paragraph 18

8. Mr. SHERIFIS said that a reference should be made to the return of lands to their proper owners.

9. The CHAIRMAN suggested rewording the end of the first sentence: following the word "continues", it should read "especially with respect to the return of lands to indigenous people returning after the armed conflict".

10. Mr. YUTZIS (Country Rapporteur) said that he could endorse that amendment.

Paragraph 20

11. Mr. WOLFRUM said that a reference should be made to the participation of the indigenous population in Parliament.

12. Mr. SHERIFIS suggested that a reference to their participation in the public service should likewise be included.

13. The CHAIRMAN noted that the beginning of paragraph 20 would accordingly read: "It is noted with concern that adequate and proportionate participation of the indigenous population in Parliament, the public service and public life at the national level has not been achieved."

Paragraph 22

14. Mr. GARVALOV said that in order to bring the style of paragraph 22 into line with that of the preceding paragraphs, he suggested deleting the words "the Committee is of the view that".

15. Mr. ABOUL-NASR asked what exactly was meant by the word "bilingual". Most of the languages spoken by the indigenous population had no written form, and he therefore did not see how they could be taught in school. Moreover, it was important to be practical and to avoid generalizations. Surely the Committee did not expect doctors in the faculty of medicine to be taught in all the indigenous languages.

16. Mr. YUTZIS (Country Rapporteur) said that all bilingual teaching posed technical problems. But it was important for people not to lose their sense of tradition, which was conveyed by language. The Government of Guatemala was already offering bilingual education, and the Committee was merely asking it to step up that effort.

Paragraph 23

17. Mr. CHIGOVERA raised the same objection to the last sentence of paragraph 23 as he had raised concerning paragraph 12.

Paragraph 24

18. Mr. de GOUTTES suggested that another sentence should be added at the end of paragraph 24 reading: "The State party is also requested to include in its next report information on complaints received and proceedings commenced concerning cases of racial discrimination." That was the wording often used in other reports.

19. Mr. CHIGOVERA said that the Committee might take as a model a phrase it had employed in relation to the United Kingdom.

20. Mr. WOLFRUM said it was inconsistent to say that articles 4, 5 and 6 were not being implemented, as the concluding observations did at an earlier

point, only to ask for information on their implementation in paragraph 24. He therefore proposed the following wording: "The Committee recommends that Guatemala should fully implement articles 4, 5 and 6 of the Convention and provide information on the measures taken." The second sentence would remain unchanged.

21. Mr. CHIGOVERA said that as the Committee had already made the same recommendation after consideration of the sixth report of Guatemala, he was inclined to leave paragraph 24 as it stood.

22. Mr. ABOUL-NASR said that the reference to articles 4, 5 and 6 should be deleted. The Committee should not be too specific in its approach.

23. Mr. CHIGOVERA considered that since the Committee was repeating an earlier recommendation, it should not delete articles 4, 5 and 6 from the current text. If members wanted a reference to be made to the implementation of other articles, then further paragraphs could be inserted to that effect.

24. The CHAIRMAN said that there seemed to be support for amending article 24 and proposed the following wording: "The Committee reiterates that the State party should fully implement the Convention, particularly articles 4, 5 and 6, and provide information on their application." In a minor drafting change, the next sentence would then begin with the words "It is further suggested". The proposal by Mr. de Gouttes would then be inserted at the end. He took it that the Committee wished to adopt paragraph 24, as amended.

Paragraph 33

25. Mr. ABOUL-NASR questioned whether it was feasible for Guatemala to give publicity to the Convention "in all the major languages of the population". He suggested deleting the words "all the".

Paragraph 34

26. Mr. ABOUL-NASR said that the Committee would set a dangerous precedent by asking the State party to allow it to choose the members of its delegation. What would happen if the delegation consisted of only one person?

27. Mr. SHERIFIS agreed. It was up to Governments to decide the composition of their delegations.

28. Mr. WOLFRUM said that paragraph 34 was only making a mild suggestion; he was in favour of retaining it.

29. Mr. YUTZIS (Country Rapporteur) said that the issue was one of substance. The suggestion in paragraph 34 did not constitute interference in the internal affairs of a State party. It was the Committee's duty to encourage the participation of persons directly affected. If the Committee recommended that the indigenous population should be represented in Parliament and public life, he did not see why it should not ask for representatives of the indigenous population to be present when the Committee discussed matters of concern to them.

30. Mr. AHMADU suggested that the phrase "may wish to include" should be inserted after "State party" in the first line, to replace the verb "invite", in order to convey the idea that the State party was free to exercise its discretion on the composition of the delegation.

31. The CHAIRMAN proposed, in view of the State party's expressed wish to include a representative of the indigenous population, that the sentence should begin "The Committee encourages the State party's plan to include a representative".

32. Mr. CHIGOVERA proposed that after the amendment had been made, the entire paragraph should be included under section C ("Positive aspects") of the document.

33. Mr. YUTZIS (Country Rapporteur) said he was willing to endorse the proposals made but wished to remind the Committee that, in the case of Guatemala, the indigenous peoples represented the majority of the population.

34. Mr. de GOUTTES supported the proposal made by Mr. Chigovera.

35. Mr. BECHETOV said the issue was very important; the Committee should not hesitate to raise the question of representation of indigenous peoples. Furthermore, for certain countries the presence of indigenous persons on the delegation should be made compulsory. In any event, the Committee's recommendation should be presented in mild, diplomatic language so as to make it possible for Governments to determine how they wished to respond to the recommendation. In his view, moving the paragraph to section C would reduce its effect to that of a comment, instead of a proposal.

36. The CHAIRMAN said he had the impression that a majority of members were in favour of making the point in section C. Such a decision would set a precedent, but would not bind the Committee to using section C in that way in the future. He asked the Committee secretary to redraft the paragraph for further consideration.

37. Mr. SHERIFIS and Mr. YUTZIS (Country Rapporteur) proposed that, in view of the connotations of the word "representative", the Committee should welcome States parties' willingness to consider the inclusion of a member of the indigenous population.

38. Mr. HUSBANDS (Secretary of the Committee) proposed the following wording: "The Committee welcomes the stated intent of the Government of Guatemala to include a member of the indigenous population during the presentation of its next periodic report."

Paragraph 16

39. Mr. CHIGOVERA said that since the paragraph under consideration was making neither a recommendation nor a suggestion, it should be placed under section C, "Positive aspects".

40. Mr. YUTZIS (Country Rapporteur) pointed out that the paragraph had been placed in the general context of recommendations and suggestions, following the model used for previous recommendations and suggestions addressed to Guatemala.

41. Mr. ABOUL-NASR asked whether the Committee had in fact received an official invitation to visit Guatemala.

42. After a lengthy exchange of views on this question, in which Mr. ABOUL-NASR, Mr. YUTZIS (Country Rapporteur) and the CHAIRMAN took part, Mr. YUTZIS (Country Rapporteur) assured the Committee that an invitation had been extended to the Committee some years earlier. For various reasons, the visit had not taken place.

43. Mr. AHMADU considered that the words "with appreciation" should be deleted from the first line of the paragraph.

44. Mr. RECHETOV suggested that the Chairman could take a decision on behalf of the Committee if it was later decided that a visit would be made.

45. The CHAIRMAN said that, as far as he recollected, the invitation had been issued orally, in the first instance, by the representative of Guatemala during the consideration of the State party's previous report. It had later been submitted in written form, but the visit had twice been postponed; the Guatemalan Government was now renewing the initial invitation.

46. Mr. ABOUL-NASR said that he could not agree to the inclusion of paragraph 36 in the concluding observations.

47. Mr. de GOUTTES said that the matter could be resolved by placing the paragraph under "Positive aspects" and rephrasing it to read: "The Committee recalls with satisfaction the State party's invitation".

48. The CHAIRMAN said he would ask the secretariat to check the files for evidence of an invitation, and if it was determined that arrangements for the visit could be made and that financial responsibility for the visit had been accepted, the concluding observations could include a paragraph to that effect.

49. Mr. VALENCIA RODRIGUEZ said it was important to retain the paragraph, whether or not it was ultimately placed under section C or E.

50. The CHAIRMAN said he took it that the Committee agreed that he should assume responsibility for the final decision on paragraph 36.

Paragraph 37

51. Mr. ABOUL-NASR suggested that the words "in the present concluding observations" should be replaced by "during the consideration of the report".

52. The draft concluding observations concerning the seventh periodic report of Guatemala as a whole, as amended, were adopted.

Draft concluding observations concerning the ninth periodic report of Luxembourg (CERD/C/50/Misc.11)

Paragraphs 15 and 16

53. The CHAIRMAN asked Mrs. Sadiq Ali (Country Rapporteur) to check on the numbering of the paragraphs to determine whether paragraphs 15 and 16 were missing.

Paragraph 22

54. The CHAIRMAN invited the Committee to consider the amendment suggested by Mr. Aboul-Nasr during the discussion of the concluding observations on Guatemala, namely, to replace "in the present observations" by "during the consideration of the report".

55. The draft concluding observations concerning the ninth periodic report of Luxembourg as a whole, as amended, were adopted.

Draft concluding observations concerning the fourteenth periodic report of Belarus (CERD/C/50/Misc.12)

Paragraph 3

56. Mr. GARVALOV considered that the whole paragraph should be deleted as it was inappropriate for the Committee to take up political issues and to attempt to bring them within the purview of the Convention.

57. Ms. ZOU Dexi agreed with Mr. Garvalov. At the very least, the first line should be deleted.

58. Mr. SHERIFIS endorsed Mr. Garvalov's comments.

59. Mr. RECHETOV said that if the proposal to delete the paragraph was approved, two points should nevertheless be retained: the references to profound economic and social changes and to immigrants and asylum-seekers. He therefore suggested the following amendment to the first sentence "The actual political situation within the country, the profound economic and social changes induced by the dissolution of the former Soviet Union, and the massive influx of immigrants and asylum-seekers are not conducive".

60. The CHAIRMAN accepted the English interpreter's suggestion that the word "present" should be used instead of "actual" in the first line of the text.

Paragraph 11

61. Mr. CHIGOVERA suggested that the paragraph should be deleted.

62. I was so decided.

63. Mr. ABOUL-NASR questioned whether the Committee, in its concluding observations, adequately reflected responses made by States parties.

64. The CHAIRMAN said that subjects of concern should be expressed in the concluding observations only if they remained after delegations had replied.

Paragraph 16

65. Mr. SHERIFIS said that he would support retention of the paragraph only if a similar concern had been expressed about the very large number of States parties in the same situation.

66. The CHAIRMAN considered that the question had been raised in the case of many other, if not all, States parties in that situation.

67. Mr. RECHETOV said that the essential point was made in the first sentence; the second sentence, which was somewhat speculative, should be deleted.

68. Mr. de GOUTTES said that, although the second sentence responded to a particular and often repeated concern of his own and related to a matter of substance, he would agree to deletion on the grounds that similarly detailed comments had not been included in the Committee's observations on other reports.

69. The CHAIRMAN agreed that the Committee should give States parties equal treatment, but to the higher rather than the lower common denominator.

70. Mr. SHAHI said he could join a consensus on deletion but recalled cases in which the Committee had raised the issue of a lack of public awareness of rights and remedies.

71. Mr. de GOUTTES said that, although he could endorse the minimalist solution of deletion, the Committee would be setting its sights higher if it kept the second sentence and subsequently included such wording in its observations in the rare cases where a comparable situation arose and a State party claimed that there had been no complaints of discrimination or prosecution for racial offences.

72. Mr. CHIGOVERA considered that the second sentence clarified the context of the Committee's first comment within the purview of the Convention, and should therefore be retained, whether or not it corresponded to past practice. Such wording would be a starting-point for the Committee's consideration of similar situations in the future, to which it could equally be applied.

73. Mr. RECHETOV pointed out that the content of the second sentence was reflected in the section "Suggestions and recommendations".

74. Mr. ABOUL-NASR disagreed with the assumption that few States parties asserted that there were no cases or complaints of racial discrimination and maintained that it was unfair to single out any State party.

75. Mr. GARVALOV said that equal treatment would require the Committee to reconsider its concluding observations on the reports of all States parties examined at the current session.

76. The CHAIRMAN took it that, in the absence of agreement, the Committee wished to delete the second sentence. The conclusion to be drawn from the discussion, however, was that in future the Committee should equally question all States parties stating that there had been no cases or complaints of racial discrimination.

77. Mr. de GOUTTES endorsed that solution, bearing in mind Mr. Chigovera's comments for the future.

Paragraph 17

78. Mr. ABOUL-NASR said he believed that the representative of the State party had responded to the issue raised in the paragraph.

79. The CHAIRMAN said it was debatable whether a satisfactory answer had been given; he understood Mr. Aboul-Nasr to be requesting deletion. In reply to a question by Mr. Sherifis, he said that no convincing argument had been given as to the reasons for the difficulties encountered by persons wishing to study the Belarusian language.

80. Following a comment by Mr. Shahi, he took it that the Committee wished to delete the paragraph.

Paragraph 19

81. Mr. CHIGOVERA suggested that the paragraph, on the same subject as paragraph 11, should receive the same treatment and be deleted.

Paragraph 25

82. Mr. RECHETOV said that the recommendation for the State party to "study" the reason for the absence of prosecution seemed to imply a requirement for it to undertake research, something that was not demanded of other State parties.

83. Mr. de GOUTTES suggested that the wording might be amended to the effect that the State party should provide a reply to the question about the absence of prosecutions.

Paragraph 30

84. Mr. GARVALOV asked whether it might not be more appropriate to request an updating report rather than a comprehensive report.

85. Mr. ABOUL-NASR proposed that the paragraph should be deleted as unnecessarily repetitive.

86. The draft concluding observations concerning the fourteenth periodic report of Belarus as a whole, as amended, were adopted subject to minor drafting changes.

Draft concluding observations concerning the tenth to fourteenth periodic reports of Pakistan (CERD/C/50/MISC.18)

Paragraph 4

87. Mr. GARVALOV (Country Rapporteur) said that a minor amendment suggested by one member had been omitted from the final text; he would submit it in writing to the secretariat.

Paragraph 7

88. Mr. ABOUL-NASR said that the representative of the State party had referred to the Commission on Human Rights as being an independent, non-governmental body, and requested that its full title should be quoted in the paragraph.

Paragraph 16

89. Mr. ABOUL-NASR suggested the insertion of the word "fully" before "comply" in the second sentence.

Paragraph 17

90. Mr. ABOUL-NASR said that the statement amounted to a judgement on the part of the Committee. It had asked for information and could not pass judgement before having received it.

91. The CHAIRMAN pointed out that the Committee was merely expressing concern, the implication being that any judgement, whether positive or negative, would ensue only after the information became available.

92. Mr. GARVALOV, supported by Mr. WOLFRUM, proposed replacing the words "Concern is expressed at the lack of" by "There is insufficient".

Paragraph 19

93. Mr. GARVALOV suggested that, since it had emerged from the discussion that some of the languages used in Pakistan were spoken rather than written, the latter part of the sentence, after "courts", should be deleted.

Paragraph 20

94. The CHAIRMAN suggested that the paragraph should begin with "As".

Paragraph 21

95. Mr. GARVALOV (Country Rapporteur), responding to concerns expressed by Mr. ABOUL-NASR, proposed that the paragraph should be deleted.

Paragraph 23

96. The CHAIRMAN, following observations made by Mr. SHERIFIS, Mr. WOLFRUM,

should be amended to read: "The Committee recommends that the State party's prohibition of discrimination be brought into line with article 1, paragraph 1, of the Convention."

Paragraph 24

97. The CHAIRMAN said that the correct title of the Commission on Human Rights would be inserted after consultation with the Permanent Mission of Pakistan.

Paragraph 26

98. Mr. ABOUL-NASR suggested that "while appreciating the concern not to encourage ethnic or group differences and distinctions" should be inserted after "The Committee".

Paragraph 27

99. Mr. ABOUL-NASR proposed that "as available" should be inserted before "information".

Paragraph 28

100. Mr. GARVALOV (Country Rapporteur) suggested that "implement" should be replaced by "give effect to".

Paragraph 31

101. Mr. de GOUTTES considered that the Committee should also ask for information on sentences handed down by the courts in respect of persons found guilty of racial discrimination.

102. Mr. ABOUL-NASR suggested that that request should be made in paragraph 35.

Paragraph 32

103. Mr. GARVALOV (Country Rapporteur), responding to observations made by Mr. ABOUL-NASR, proposed that the beginning of the paragraph should be reworded to read: "The Committee recommends that the State party, in its efforts in the field of human rights education and awareness, continue to pay attention also to the establishment".

Paragraph 35

104. The CHAIRMAN said that paragraph 35 would reflect the request for information on sentencing mentioned by Mr. de Gouttes.

105. The draft concluding observations concerning the tenth to fourteenth periodic reports of Pakistan as a whole, as amended, were adopted.

Draft concluding observations concerning the twelfth to fourteenth periodic reports of Bulgaria (CERD/C/50/Misc.23)

Paragraph 9

106. Mr. ABOUL-NASR suggested that "credible" should be deleted from the fourth sentence.

Paragraph 10

107. Mr. ABOUL-NASR proposed that "numerous" should be deleted from the first line.

Paragraph 13

108. Mr. AHMADU suggested that the final sentence should be deleted.

Paragraph 14

109. Mr. WOLFRUM (Country Rapporteur), responding to concerns raised by Mr. Aboul-Nasr, said that reference to the situation of the Turks was implicit in several parts of the draft concluding observations.

110. The CHAIRMAN suggested that the Committee should recommend the State party to provide "such statistical data as is available".

Paragraph 16

111. The CHAIRMAN proposed that the first sentence should be deleted.

Paragraph 20

112. Mr. WOLFRUM (Country Rapporteur), in response to an observation made by Mr. ABOUL-NASR, proposed that "remedy" should be replaced by "procedure".

113. Mr. RECHETOV, supported by Mr. ABOUL-NASR, said that, before the text was adopted as a whole, he wished to stress the fact that he disagreed with paragraph 11 of the draft concluding observations: he did not believe that the prohibition of political parties on ethnic, racial or religious grounds amounted to a violation of the right to establish political parties in general. The Committee was also wrong to make a direct criticism of the Constitution of a State party.

114. The draft concluding observations concerning the twelfth to fourteenth periodic reports of Bulgaria as a whole, as amended, were adopted.

Draft concluding observations concerning the eleventh to thirteenth periodic reports of Iraq

115. Mr. WOLFRUM (Country Rapporteur) said that members of the Committee had made many suggestions concerning the text on Iraq, which he would not have time to collate before the end of the session. He therefore suggested that

the draft concluding observations should be left pending until the fifty-first session in August, which would still leave enough time for them to be included in the report to be submitted to the General Assembly.

116. Mr. ABOUL-NASR agreed with Mr. Wolfrum's suggestion.

117. Mr. RECHETOV, supported by Mr. CHIGOVERA, said that if that course of action was taken, it would be the first time that the Committee had ended its session without adopting concluding observations on a State that had reported to it during the session. That would be difficult to explain and would reflect badly on the Committee. It should therefore take a vote on whether to defer the adoption of the draft concluding observations concerning Iraq.

118. The proposal to defer consideration of the draft concluding observations concerning Iraq was adopted by 12 votes to 2, with 1 abstention.

The meeting rose at 6.10 p.m.